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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jamal Benbrahim

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Weaver Austin Villeneuve & Sampson LLP - IGT

Attn: IGT

P.O. Box 70250

Oakland, CA 94612-0250

EXAMINER

OMOTOSHO, EMMANUEL

ART UNIT

PAPER NUMBER

3714

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/880,474	<b>Applicant(s)</b> BENBRAHIM, JAMAL	
	<b>Examiner</b> EMMANUEL OMOTOSHO	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/14/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims **18-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe (US 6,645,077) in view of Graunke et al (US 5,991,399) and Alcorn et al (US 6,149,522).
3. In regards to claims 18,22,24-26 and 35-40 Rowe teaches a gaming terminal data repository and information distribution system for transmitting games over a communications link (*Rowe* Col 6:44-61, Col 5:51-58), audio and video data utilized during the play of said games (*Rowe* Col 9:35-56 & Elm 230, 232), the utilization encryption with the transmission data (*Rowe* Col 22:30-51), wherein the games include a first game that is valid for execution in the venue in which the gaming device is located and is approved for execution on the gaming device (i.e. provide the

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private/public key to decrypt the encrypted game data, wherein 'a game valid for execution' is being interpreted as a game that is authorized for execution) and a second game that is invalid for execution in the venue in which the gaming device is located and is approved for execution on the gaming device (i.e. if the game data is not authorized for the user/venue, the user/venue will not given the authority to unlock/decrypt the encrypted data. The authority to unlock/decrypt an encrypted data is known as the private and public key of said encrypted data) the select transmission of multiple operational game configuration based on the jurisdiction which the game is operated (*Rowe* Col 13:50-65), receiving an element of value for use as credit on a gaming device for wagering a bet on a game (Fig 6A), the display device for displaying the outcome of a game (Fig 6A), and the operation of the respective game once stored (*Rowe* Col 4:66-5:13) on a programmable memory device such as RAM in communication with a processor at the respective terminal location (*Rowe* Fig2, Elm 206, & Col 20:1-21).

4. Rowe however is silent regarding

a. The specific manner of encryption utilized

i. However, Graunke teaches a manner of encryption suitable for the distribution of software Rowe including the distribution of games (*Graunke* Col 6:30-35, 3:67-4:1 & Elm 104) that utilizes a private key for the cryptographic processing of data (*Graunke* Elm 102, 104, 124, 130), the utilization of a secure access module (*Graunke* Elm 52, "Tamper Resistant Key Module") for storing multiple private keys (*Graunke* Elm 102, 106,

110). Graunke further teaches the system taking remedial action whenever the decrypted data is not authenticated by the remote device (Fig 4b Elm. 118,119,120,128,138)

ii. As discussed above Rowe teaches the use of encryption but is silent regarding the specific manner and related features as to how encryption is incorporated/implemented within the disclosed invention. Given these general teachings one of ordinary skill in the art would have been forced to seek outside references, such as the Graunke reference for disclosure as to the known manners and/or procedures of enacting the encryption as described in the first invention of Rowe. Accordingly, it would have been obvious to one of ordinary skill in the art to incorporate the encryption techniques of Graunke into the invention of Rowe so as to allow for the full functionality of the invention of Rowe to be realized.

b. The gaming device sending information relating to the decrypted data to a remote device for authentication of the decrypted data.

iii. However, Alcorn teaches the generation of a message digest (i.e. information relating to the game data) from the game data. After decrypting the message digest, the game device sends the decrypted content to an authentication program on a remote device. The authentication program validates/authenticates the game data by using the message digest (Abstract). If the game contents are not

authenticated, a remedial action such as preventing the use of the game data is taking (Alcorn Col 9 lines 6-16).

iv. As discussed above Rowe teaches the use of encryption but is silent regarding the specific manner and related features as to how encryption is incorporated/implemented within the disclosed invention. Graunke teaches the known manners and/or procedures of enacting the encryption as described in the first invention of Rowe. Alcorn teaches a step of taking the security measures a step further to prevent tampering with the contents of the game data (Abstract, Par 3 lines 44-55).

Therefore, it would have been obvious to one of ordinary skill in the art to incorporate Alcorn's teachings to further prevent tampering with the contents of the game data.

In regards to claims 19-21 and 23, Graunke disclose the utilization of a secure access module (*Graunke* Elm 52, "Tamper Resistant Key Module") for storing multiple private keys (*Graunke* Elm 102, 106, 110) and further disclose the storage of the operating data at the gaming device (Col. 8 lines 65- Col 9 line 1).

In regards to claims 24-25, Rowe discloses the operation of the respective game stored (*Rowe* Col 4:66-5:13) on a programmable memory device such as RAM in communication with a processor at the respective terminal location (*Rowe* Fig2, Elm 206, & Col 20:1-21).

In regards to claims 27-30 and 31-34, Rowe discloses the gaming device wherein games are approved for use in different jurisdiction (Fig. 4), the remedial action is to

erase the private key or code stored on the gaming device since there is no point of keeping it (Graunke Fig. 4b Elm 128) and also (Alcorn Col 9 lines 6-16), and the calculating of digital signatures based on the operating data (Col 5 lines 15-25).

### ***Response to Arguments***

5. Applicant's arguments filed 07/03/07 have been considered but are moot in view of the new ground(s) of rejection.

### ***Response to Arguments***

6. Applicant's arguments filed 11/27/07 have been fully considered but they are not persuasive.

7. On page 11-12, applicant argues, *"Initially, it is respectfully submitted that the Examiner has not properly addressed these claimed features (a and b noted above). Instead, the Examiner has merely asserted that Graunke et al teaches 'utilizing private key for cryptographic processing data' (Office Action, page 3). Clearly, this general assertion does not address the claimed feature of: (a) receiving by a gaming device (or providing the gaming device with) ~ one of a first private key or a second private key for respectively decrypting encrypted first and second operating data which are stored on a gaming device for first and second games, in order to prevent the executing of the first or second game on the gaming device. Accordingly, it is respectfully submitted that the Examiner's rejection is improper and should be withdrawn. Moreover, it is respectfully submitted that Graunke et al does not teach this claimed feature (a). Instead, Graunke et al teaches: secure distribution of a private key to a user's application program (such as DVD player) with conditional access based on verification of the application program (see, for example, the Abstract)."*

8. The examiner respectfully disagrees. As shown above, Rowe teaches encrypting the game data and Graunke teaches the well known method of encryption. The reason why data is encrypted is to "prevent" access to a particular data and give access to the said data to individuals who are given the required key. If an individual is not qualified to have access to a particular encrypted data, the only way to "prevent" the said individual from accessing the said encrypted data is to not provide the said individual with the key to decrypt the data.

9. On page 12, applicant argues, "In the Office Action, the Examiner has asserted that Alcorn et al teaches the claimed feature of: (b) sending by the gaming device information related to the decrypted one of the first or second operating for authentication after decrypting it respectively by the first or second private key. In order to support this assertion, the Examiner has relied on the abstract of Alcorn et al. Clearly, the abstract of Alcorn et al or general knowledge that authentication can be performed does not address this specific claimed feature. Accordingly, it is respectfully submitted that the Examiner's rejection is improper and should be withdrawn for this additional reason. Moreover, it is respectfully submitted that the cited art does not teach or suggest the combination of the claimed features noted above (a and b) and therefore claim 18 and other independent claims are patentable over the cited art for at least this reason."

10. The examiner respectfully disagrees. Applicant's claimed feature, sending by the gaming device information related to the decrypted data for authentication after decrypting the data using the private key, is a general knowledge in the art. Alcorn



reference serves as proof. In Alcorn, once the data is decrypted, a message digest (i.e. information related to the decrypted data) is generated. This digest is used, as shown above, to authenticate the said data.

***Response to Arguments***

11. Applicant's arguments filed 10/16/08 have been fully considered but they are not persuasive. Please see par 3 above.

***Response to Arguments***

12. Applicant's arguments filed 4/6/09 have been fully considered but they are not persuasive.

13. On page 10, applicant argues, "Regarding a first game that is valid for execution in the venue in which the gaming device is located and is approved for execution on the gaming device, page 3 of the Office Action states: "i.e., provide the private/public key to decrypt the encrypted game data, wherein 'a game valid for execution' is being interpreted as a game that is authorized for execution." Regarding a second game that is invalid for execution in the venue in which the gaming device is located and is approved for execution on the gaming device, page 3 of the Office Action states: "i.e. if the game data is not authorized for the user/venue, the user venue will not [be] given the authority to unlock/decrypt the encrypted data. The authority to unlock/decrypt an encrypted data is known as the private and public key of said encrypted data." Applicant does not understand how this teaches or suggests "receiving from a remote device encrypted executable code for a plurality of games including a first game that is valid for execution in the venue in which the gaming device is located and is approved for execution on the gaming device and a second game that is invalid for execution in the venue in which the gaming device is located and is approved for execution on the gaming device," as recited in claim 18. As discussed above, Rowe never describes that both a game valid for execution in the venue and a game invalid for execution in the venue in which the gaming device is located are both received by a gaming device".

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14. The examiner respectfully disagrees. The only game data requirement that is needed for a game to be transmitted over Rowe's communication network is that the game data be encrypted. Thus, Rowe as shown above is more than capable of transmitting valid/invalid game over the communication network. The idea of a game being valid/invalid is subjective and solely dependent on whichever game the game provider chooses to be valid or not valid. When a sender sends an encrypted data over a communication line, it is up to the sender to provide the private key in order for a receiver to decrypt the said data. Without the private key, the encrypted data cannot be executed on the receiver's machine. Thus, the encrypted data is invalid for execution. Therefore, 'a game valid for execution' is being interpreted as a game that is authorized for execution with the private key. A game that is invalid for execution in the venue in which the gaming device is located and is approved for execution on the gaming device is the same as game data not authorized for the user/venue that does not have the private key. The private key, in a sense, validates a receiver. The authority to unlock/decrypt an encrypted data is known as the private and public key of said encrypted data.

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMMANUEL OMOTOSHO whose telephone number is (571)272-3106. The examiner can normally be reached on m-f 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EO

/Ronald Laneau/

Primary Examiner, Art Unit 3714

06/20/09